

Samuel H. Ruby, SBN 191091
E-mail: samuel.ruby@bullivant.com
Kevin K. Ho, SBN 233408
E-mail: kevin.ho@bullivant.com
BULLIVANT HOUSER BAILEY PC
601 California Street, Suite 1800
San Francisco, California 94108
Telephone: 415.352.2700
Facsimile: 415.352.2701

*Attorneys for Plaintiff The Continental
Insurance Company*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

THE CONTINENTAL INSURANCE
COMPANY,

Plaintiff,

vs.

JOHN JOSEPH COTA; REGAL STONE
LIMITED; and FLEET MANAGEMENT
LIMITED,

Defendants.

Case No.: 3:08-cv-2052-SC as related to: 07-
cv-5800-SC, 07-cv-6045-SC, and 07-cv-5926-
SC

**NOTICE OF FILING PROOF OF
SERVICE OF SUMMONS**


TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

Attached hereto, as Exhibit A, is a notice of filing of Proof of Service of Summons and
Complaint.

DATED: May 27, 2008

BULLIVANT HOUSER BAILEY PC

By


Samuel H. Ruby, SBN 191091
Kevin K. Ho, SBN 233408

Attorneys for Plaintiff The Continental Insurance
Company

EXHIBIT A

SAMUEL H. RUBY (SBN 191091) KEVIN K. HO (SBN 233408) BULLIVANT HOUSER BAILY PC 601 CALIFORNIA STREET, SUITE 1800 SAN FRANCISCO, CALIFORNIA 94108 Attorney(s) for: PLAINTIFF, THE CONTINENTAL INSURANCE COMPANY Reference: 3018838		
UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION		
THE CONTINENTAL INSURANCE COMPANY Plaintiff (s)	CASE NUMBER: CV08-2502-SI (related case CV07-5800-SC)	
v. JOHN JOSEPH COTA, et al. Defendant (s)	PROOF OF SERVICE SUMMONS AND COMPLAINT (Use separate proof of service for each person/party served)	

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (specify documents):
 - a. ☒ summons ☒ complaint ☐ alias summons ☐ first amended complaint
 - in a civil case ☐ second amended complaint ☐ third amended complaint
 - ☒ other (specify): FRCP RULE 7.1 CORPORATE DISCLOSURE STATEMENT OF PLAINTIFF CONTINENTAL INSURANCE COMPANY; CONTINENTAL INSURANCE COMPANY'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED PURSUANT TO CIVIL LOCAL RULE 3-12; [PROPOSED] ORDER RELATING CONTINENTAL INSURANCE COMPANY'S CASE *CHELSEA, LLC ET AL. V REGAL STONE LIMITED, ET AL.* PURSUANT TO CIVIL LOCAL RULE 3-12; CIVIL COVER SHEET; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; (BLANK) CASE MANAGEMENT CONFERENCE ORDER; STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA CONTENTS OF JOINT CASE MANAGEMENT STATEMENT; JUDGE ILLSTON'S STANDING ORDER; NOTICE OF AVAILABILITY OF MAGISTRATE JUDGE TO EXERCISE JURISDICTION; ECF REGISTRATION INFORMATION HANDOUT
2. Person served:
 - a. ☒ Defendant (name): *REGAL STONE LIMITED*
 - b. ☒ Other (specify name and title or relationship to the party/business named): *KEVIN M. KENNEDY, AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF REGAL STONE LIMITED*
 - c. ☒ Address Where papers were served: *145 EAST 16TH STREET, #18J, NEW YORK, NY 10003*
3. Manner of service in compliance with (the appropriate box must be checked):
 - a. ☒ Federal Rules of Civil Procedure
 - b. ☐ California Code of Civil Procedure
4. I served the person named in item 2:
 - a. ☒ By **Personal service**. By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least (12) years of age.
 1. ☒ Papers were served on (date): **APRIL 29, 2008** at (time): **8:50AM**
 - b. ☐ By **Substituted service**. By leaving copies:
 1. ☐ (home) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.
 2. ☐ (business) or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers.
 3. ☐ Papers were served on (date): _____ at (time): _____

4. ☐ **by mailing** (by first-class mail, postage prepaid) copies to the person served in item 2(b) at the place where the copies were left in Item 2(c).
5. ☐ **papers were mailed on** (date): _____
6. ☐ **due diligence.** I made at least three (3) attempts to personally serve the defendant.
- c. ☐ **Mail and acknowledgment of service.** By mailing (*by first-class mail or airmail, postage pre-paid*) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid to the sender. (**Attach completed Waiver of Service of Summons and Complaint**).
- d. ☐ **Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P.4(h)) (C.C.P. 416.10)** By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment of by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, a mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e. ☐ **Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only)** By leaving during usual office hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (*by first-class mail, postage prepaid*) copies to the persons at the place where the copies were left in full compliance with C.C.P. 415.20. Substitute service upon the California Secretary of state requires a court order. (**Attach a copy of the order to this proof of service**).
- f. ☐ **Service on a foreign corporation.** In any manner prescribed for individuals by FRCP 4(f).
- g. ☐ **Certified or registered mail service.** By mailing to an address outside California (*by first-class mail, postage prepaid, requiring a return receipt*) copies to the person served. (**Attach signed return receipt or other evidence of actual receipt by the person served**).
- h. ☐ **Other** (specify code section and type of service): _____
5. **Service upon the United States, and Its Agencies, Corporations or Officers.**
- a. ☐ by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.
Name of person served:
Title of person served:
Date and time of service: (date): _____ at (time): _____
- b. ☐ By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. (**Attached signed return receipt or other evidence of actual receipt by the person served**).
- c. ☐ By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation (**Attach signed return receipt or other evidence of actual receipt by the person served**).
6. At the time of service I was at least 18 years of age and not a party to this action.
7. Person serving (*name, address and telephone number*):

JACK JOHNSON
c/o NATIONWIDE LEGAL, INC.
1255 POST STREET, SUITE #500
SAN FRANCISCO, CA 94109
(415) 351-0400

- a. Fee for service: \$ _____
- b. ☒ Not a Registered California Process Server
- c. ☐ Exempt from registration under B&P 2235(b)
- d. ☐ Registered California Process Server

8. ☐ I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: MAY 2, 2008


(Signature)

SAMUEL H. RUBY (SBN 291091) KEVIN K. HO (SBN 233408) BULLIVANT HOUSER BAILY PC 601 CALIFORNIA STREET, SUITE 1800 SAN FRANCISCO, CALIFORNIA 94108 Attorney(s) for: PLAINTIFF, THE CONTINENTAL INSURANCE COMPANY Reference: 3018839		
UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN FRANCISCO DIVISION		
THE CONTINENTAL INSURANCE COMPANY <div style="text-align: right;">Plaintiff (s)</div>	CASE NUMBER: CV08-2502-SI (related case CV07-5800-SC)	
<div style="text-align: center;">v.</div> JOHN JOSEPH COTA, et al. <div style="text-align: right;">Defendant (s)</div>	PROOF OF SERVICE SUMMONS AND COMPLAINT (Use separate proof of service for each person/party served)	

1. At the time of service I was at least 18 years of age and not a party to this action and I served copies of the (specify documents):
- a. ☒ summons in a civil case ☒ complaint ☐ alias summons ☐ first amended complaint ☐ second amended complaint ☐ third amended complaint
- ☒ other (specify): FRCP RULE 7.1 CORPORATE DISCLOSURE STATEMENT OF PLAINTIFF CONTINENTAL INSURANCE COMPANY; CONTINENTAL INSURANCE COMPANY'S ADMINISTRATIVE MOTION TO CONSIDER WHETHER CASES SHOULD BE RELATED PURSUANT TO CIVIL LOCAL RULE 3-12; [PROPOSED] ORDER RELATING CONTINENTAL INSURANCE COMPANY'S CASE *CHELSEA, LLC ET AL. V REGAL STONE LIMITED, ET AL.* PURSUANT TO CIVIL LOCAL RULE 3-12; CIVIL COVER SHEET; ORDER SETTING INITIAL CASE MANAGEMENT CONFERENCE AND ADR DEADLINES; (BLANK) CASE MANAGEMENT CONFERENCE ORDER; STANDING ORDER FOR ALL JUDGES OF THE NORTHERN DISTRICT OF CALIFORNIA CONTENTS OF JOINT CASE MANAGEMENT STATEMENT; JUDGE ILLSTON'S STANDING ORDER; NOTICE OF AVAILABILITY OF MAGISTRATE JUDGE TO EXERCISE JURISDICTION; ECF REGISTRATION INFORMATION HANDOUT
2. Person served:
- a. ☒ Defendant (name): *FLEET MANAGEMENT LTD.*
- b. ☒ Other (specify name and title or relationship to the party/business named): *SAU JIV, AGENT, AUTHORIZED TO ACCEPT SERVICE OF PROCESS ON BEHALF OF FLEET MANAGEMENT LTD.*
- c. ☒ Address Where papers were served: **2000 W. SAN HOUSTON PARKWAY SOUTH, #1155, HOUSTON, TX 77042**
3. Manner of service in compliance with (the appropriate box **must** be checked):
- a. ☒ Federal Rules of Civil Procedure
- b. ☐ California Code of Civil Procedure
4. I served the person named in item 2:
- a. ☒ By **Personal service**. By personally delivering copies. If the person is a minor, by leaving copies with a parent, guardian, conservator or similar fiduciary and to the minor if at least (12) years of age.
1. ☒ Papers were served on (date): **MAY 5, 2008** at (time): **1:50PM**
- b. ☐ By **Substituted service**. By leaving copies:
1. ☐ (home) at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household, at least 18 years of age, who was informed of the general nature of the papers.
2. ☐ (business) or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers.
3. ☐ Papers were served on (date): _____ at (time): _____

4. ☐ by mailing (by first-class mail, postage prepaid) copies to the person served in item 2(b) at the place where the copies were left in Item 2(c).
5. ☐ papers were mailed on (date): _____
6. ☐ due diligence. I made at least three (3) attempts to personally serve the defendant.
- c. ☐ **Mail and acknowledgment of service.** By mailing (*by first-class mail or airmail, postage pre-paid*) copies to the person served, with two (2) copies of the form of Waiver of Service of Summons and Complaint and a return envelope, postage prepaid to the sender. (**Attach completed Waiver of Service of Summons and Complaint**).
- d. ☐ **Service on domestic corporation, unincorporated association (including partnership), or public entity. (F.R.Civ.P.4(h)) (C.C.P. 416.10)** By delivering, during usual business hours, a copy of the summons and complaint to an officer, a managing or general agent, or to any other agent authorized by appointment of by law to receive service of process and, if the agent is one authorized by statute and the statute so requires, a mailing, by first-class mail, postage prepaid, a copy to the defendant.
- e. ☐ **Substituted service on domestic corporation, unincorporated association (including partnership), or public entity. (C.C.P. 415.20 only)** By leaving during usual office hours, a copy of the summons and complaint in the office of the person served with the person who apparently was in charge and thereafter by mailing (*by first-class mail, postage prepaid*) copies to the persons at the place where the copies were left in full compliance with C.C.P. 415.20. Substitute service upon the California Secretary of state requires a court order. (**Attach a copy of the order to this proof of service**).
- f. ☐ **Service on a foreign corporation.** In any manner prescribed for individuals by FRCP 4(f).
- g. ☐ **Certified or registered mail service.** By mailing to an address outside California (*by first-class mail, postage prepaid, requiring a return receipt*) copies to the person served. (**Attach signed return receipt or other evidence of actual receipt by the person served**).
- h. ☐ **Other** (specify code section and type of service): _____
5. **Service upon the United States, and Its Agencies, Corporations or Officers.**
- a. ☐ by delivering a copy of the summons and complaint to the clerical employee designated by the U.S. Attorney authorized to accept service, pursuant to the procedures for the Office of the U.S. Attorney for acceptance of service, or by sending a copy of the summons and complaint by registered or certified mail addressed to the civil process clerk at the U.S. Attorneys Office.
Name of person served: _____
Title of person served: _____
Date and time of service: (date): _____ at (time): _____
- b. ☐ By sending a copy of the summons and complaint by registered or certified mail to the Attorney General of the United States at Washington, D.C. (**Attached signed return receipt or other evidence of actual receipt by the person served**).
- c. ☐ By sending a copy of the summons and complaint by registered or certified mail to the officer, agency or corporation (**Attach signed return receipt or other evidence of actual receipt by the person served**).
6. At the time of service I was at least 18 years of age and not a party to this action.
7. Person serving (*name, address and telephone number*):

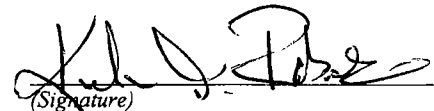
KELVIN ROBERTS
c/o NATIONWIDE LEGAL, INC.
1255 POST STREET, SUITE #500
SAN FRANCISCO, CA 94109
(415) 351-0400

- a. Fee for service: \$ _____
- b. ☒ Not a Registered California Process Server
- c. ☐ Exempt from registration under B&P 2235(b)
- d. ☐ Registered California Process Server

8. ☐ I am a California sheriff, marshal, or constable and I certify that the foregoing is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Date: MAY 6, 2008


(Signature)

WAIVER OF SERVICE OF SUMMONS

BULLIVANT HOUSER BAILEY, PC on behalf of THE CONTINENTAL INSURANCE COMPANY
(NAME OF PLAINTIFF'S ATTORNEY OR UNREPRESENTED PLAINTIFF)

DAVID P. SCHACK, ESQ. on behalf of
I, JOHN JOSEPH COTA, acknowledge receipt of your request
(DEFENDANT NAME)

The Continental Insurance Company v.
that I waive service of summons in the action of John Joseph Cota, et al.,
(CAPTION OF ACTION)
CV08-2502-SI (related case no:
which is case number CV07-5800-SC) in the United States District Court
(DOCKET NUMBER)
for the Northern District of California.

I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of a summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons. (including, without limitation, any motion to stay or compel arbitration.)

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an

answer or motion under Rule 12 is not served upon you within 60 days after April 23, 2008,
(DATE REQUEST WAS SENT)

or within 90 days after that date if the request was sent outside the United States.

May 12, 2008

April, 2008

(DATE)

Kirkpatrick + Lockhart Preston Gates Ellis

by [Signature]
(SIGNATURE)

Printed/Typed Name: David P. Schack, Esq.

As Counsel of JOHN JOSEPH COTA

PROOF OF SERVICE

I am employed in the City and County of San Francisco by the law firm of Bullivant Houser Bailey, PC ("the business"), 601 California Street, Suite 1800, San Francisco, CA 94108. I am over the age of 18 and not a party to this action. On May 27, 2008, I served the document(s) entitled:

(1) PROOF OF SERVICE SUMMONS AND COMPLAINT (on Defendant Regal Stone Limited)

(2) PROOF OF SERVICE SUMMONS AND COMPLAINT (on Defendant Fleet Management Ltd.)

(3) WAIVER OF SERVICE OF SUMMONS (by Defendant John Joseph Cota)

upon the following party(ies):

Audet and Partners LLC (C-07-5800 SC) William Audet 221 Main St., Ste. 1460 San Francisco, CA 94105 Fax: 415-568-2556 Attorneys for Plaintiffs in C-07-5800 SC	Birnberg & Associates (C-07-5926 SC) Cory Birnberg 703 Market St., Ste. 600 San Francisco, CA 94103-2114 Fax: 415-398-2001 Attorneys for Plaintiffs in C-07-5926 SC
Walter G. Coppenrath, Jr. George Jones Coppenrath & Associates 400 Ocean Gate, Ste. 400 Long Beach, CA 90802 Telephone: 562-216-2948 Fax: 562-252-1136 Counsel for John Cota	David P. Schack
John Giffin Keesel, Young & Logan 4 Embarcadero Ctr., Ste. 1500 San Francisco, CA 94111 Fax: 415-981-0136 Counsel for Regal Stone, Fleet Management, and COSCO BUSAN, in rem	R. Michael Underhill U.S. Department of Justice 450 Golden Gate Ave. 7 th Flr., Rm. 7-5394 PO Box 36028 San Francisco, CA 94102-3463 Counsel for the United States of America

☒ **BY E-MAIL:** I caused such document(s) to be served electronically on all parties via the United States District Court's Northern District ECF e-filing system.

1 ☒ Pursuant to California Rules of Court, Rule 201, and the Local Rules of the United
2 States District Court, I certify that all originals and service copies (including exhibits) of
3 the papers referred to herein were produced and reproduced on paper purchased as
4 recycled, as defined by Section 42202 of the Public Resources Code.

5 I declare under penalty of perjury that the foregoing is true and correct. Executed on
6 May 27, 2008, at San Francisco, California.